

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

FORREST GRAY,

Plaintiff,

v.

CASSIE,

Defendant.

Case No. 2:22-cv-0099-DC-JDP (P)

ORDER

Plaintiff is a state inmate proceeding without counsel in this civil rights action brought under 42 U.S.C. § 1983. Plaintiff has filed a motion seeking to proceed with a bench trial, as opposed to a jury trial.<sup>1</sup> ECF No. 62. Defendant opposes, arguing that he properly asserted his right to a jury trial in his answer and that because plaintiff brought this action under 42 U.S.C. § 1983, defendant has the right to a jury trial. ECF No. 63.

The Seventh Amendment provides that “[i]n Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved . . . .” U.S. Const. amend. VII. This constitutional guarantee “appl[ies] to actions enforcing statutory rights, and requires a jury trial upon demand, if the statute creates legal rights and remedies, enforceable in an action for damages in the ordinary courts of law.” *Curtis v. Loether*, 415 U.S. 189, 194

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<sup>1</sup> Both plaintiff’s initial and the operative complaint request a jury trial. *See* ECF No. 1 & 13.

(1974). While 42 U.S.C. § 1983 does not expressly provide for the right to a jury trial, *see City of Monterey v. Del Monte Dunes at Monterey, Ltd.*, 526 U.S. 687, 707 (1999), the Supreme Court has held that such an action “seeking legal relief is an action at law within the meaning of the Seventh Amendment,” *id.* at 709.

Rule of Civil Procedure 38 and Local Rule 201 govern the procedure for when a demand is made for a jury trial. Federal Rule of Civil Procedure 38 provides in the relevant part:

(b) Demand. On any issue triable of right by a jury, a party may demand a jury trial by . . . serving the other parties with a written demand—which may be included in the pleadings—no later than 14 days after the last pleading directed to the issue is served . . .

(d) Waiver; Withdrawal. A party waives a jury trial unless its demand is properly served and filed. A proper demand may be withdrawn only if the parties consent.

Defendant filed an answer with a demand for a jury trial, ECF No. 36 at 5, and has not withdrawn his demand for a jury trial, ECF No. 63. Therefore, because defendant has a right to a jury trial in this action and he has complied with the procedures for demanding a jury trial, plaintiff’s motion is denied.

Accordingly, it is hereby ORDERED that plaintiff’s motion for a bench trial, ECF No. 62, is DENIED.

IT IS SO ORDERED.

Dated: March 4, 2025

  
JEREMY D. PETERSON  
UNITED STATES MAGISTRATE JUDGE